



SIERRA CLUB

MARYLAND CHAPTER

Sierra Club Maryland Chapter

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Committee: Education, Health, and Environmental Affairs

Testimony on: SB 528 – Climate Solutions Now Act of 2022

Position: Favorable with Amendments

Hearing Date: February 15, 2022

The Sierra Club Maryland Chapter, on behalf of our 70,000 members and supporters, urges a favorable report with amendments on SB528. This legislation is one of the most important bills before the General Assembly this year, and is a Sierra Club priority. To combat the existential threat of climate change, the bill sets ambitious and achievable goals for the state, strengthens existing programs, and launches new programs to ensure that we have a path to achieve these goals. The bill will put Maryland on track to reach net-zero greenhouse gas emissions by 2045. It will promote building energy efficiency standards and electrification, establish climate-related workforce training and mitigation efforts for vulnerable communities, enhance control of methane emissions, expand adoption of zero emission vehicles, and strengthen agencies' planning efforts.

Maryland is an ecological and human treasure that must be protected. We have thousands of miles of shoreline, million acres of farmland (including 20 urban farms), mountain ranges and forests and beaches, and our millions of residents making up a diverse population. Yet climate change is eroding our shorelines and cliffs, bringing changing weather patterns to our crops, removing the snow from our mountains, and threatening the health and economic livelihoods of our populace. This bill is an important step to mitigate further degradation of our natural and human resources.

All the measures included in the bill are important, and we have supported joint testimony, submitted by Chesapeake Climate Action Network, which covers a range of issues. We will focus this testimony on a few key provisions.

Addressing Pollution from our Buildings

With countless commercial ¹businesses currently hooked up to the gas distribution system, as well as the heavy reliance of Maryland households on burning fossil fuels for heating, the building sector is responsible for more climate pollution in Maryland than the state's remaining coal-fired power plants. The Maryland Department of the Environment (MDE) and the Maryland Commission on Climate

¹ Maryland Commission on Climate Change, "2021 Annual Report and Building Energy Transition Plan, Appendix A ("Building Energy Transition Plan"), <https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/2021%20Annual%20Report%20Appendices%20FINAL.pdf>.

Change have both made it clear that decarbonization of the building sector, with a prioritization of building energy efficiency and electrification pathways, is foundational to achieving mid-century climate commitments.

SB 528 includes two critical policies to reduce pollution from the buildings sector.

The legislation directs MDE to develop a “Building Emission Standard,” with the goals of reducing greenhouse gas emissions from state buildings by 50% by 2030, and achieving net-zero emissions by 2035 for public buildings, and, for non-public buildings, achieving a 20% reduction by 2030 and net zero by 2040.

This inclusion of Building Energy Performance Standards (BEPS) is a critical part of Maryland’s climate emergency plan. The application of these standards has been found to “produce 50% less greenhouse gasses due to water consumption than baseline buildings, 48% less due to solid waste management, and 5% less due to transportation.”² These standards are already adopted in Colorado, Virginia, California, Washington, Maine, Nebraska, New Hampshire, Utah, New York, Oregon, and Washington, D.C. As more communities adopt these standards, the less expensive they become to implement. If adopted across the U.S., these standards would help avoid “an estimated 172–405 premature deaths, 171 hospital admissions, 11,000 asthma exacerbations, 54,000 respiratory symptoms, 21,000 lost days of work, and 16,000 lost days of school.”³

As we confront and seek to remedy climate pollution from buildings, it is important to protect tenants from undue rent increases. We are offering amendments that would do this.

Second, the bill would update the state’s building code to provide that new buildings should meet their water and space heating requirements without the use of fossil fuels. The Maryland Commission on Climate Change advises that we need to decarbonize our buildings by 2045, meaning that they would not rely on fossil fuels for heat. It would be completely counterproductive to add fossil fuel infrastructure by including it in new buildings.

The Sierra Club is proposing amendments which would increase energy efficiency targets for new buildings to complement and augment this all-electric requirement.

Electric Vehicle Fleet

Transportation is the largest source of climate-damaging greenhouse gas pollution in Maryland. The transportation sector also is a major source of toxic emissions that are hazardous to human health and are linked to cancers, heart disease, asthma, and other respiratory diseases. Vehicle tailpipe emissions

² Mazingo, Louise, and Arens, Ed. *Quantifying the Comprehensive Greenhouse Gas Co-Benefits of Green Buildings*.

³ P., M., X., C., J., B. et al. Energy savings, emission reductions, and health co-benefits of the green building movement. *J Expo Sci Environ Epidemiol* 28, 307–318 (2018). <https://doi.org/10.1038/s41370-017-0014-9>

also contribute to ozone, smog, and acid rain. More than 85% of Marylanders live in counties that do not meet clean air standards for ozone, due in large part to vehicle tailpipe emissions. According to the Maryland Department of Health (MDH), in 2018 there were 29,534 asthma-related emergency department visits in Maryland. In 2019, MDH also reported that chronic lower respiratory diseases, including asthma, were the fifth leading cause of death in the state. Ground level ozone damages crops, trees and other vegetation. Acid rain affects soil, lakes, streams, and the Chesapeake Bay, and enters into the food chain via water, produce, meat, and fish.

Maryland must look at a range of strategies to dramatically reduce vehicle pollution , including expanding the use of electric vehicles, public transit, smart growth, and bikeable, walkable communities. Whenever possible, state and local governments should lead by example.

SB 528 would require the state to purchase zero-emission passenger cars and other light-duty vehicles for the state vehicle fleet of approximately 5,600 vehicles, with the goal of having 100% of the passenger cars be zero-emission by 2030, and 100% of other light duty vehicles be zero-emission by 2036. The development of charging infrastructure to support the zero-emission vehicles in the state fleet also would be required. Eight other states have already begun electrifying their vehicle fleets (California, Connecticut, Illinois, Minnesota, New Hampshire, North Carolina, Oregon, and Tennessee).

Additionally, the legislation requires the purchase of zero-emission school buses using federal, state or private funding, where available. We also support having local school boards obtain needed funds from electric companies to purchase zero-emission school buses in exchange for allowing the electric companies to access energy from the storage batteries of the buses when they are not in use.

Electrification of vehicles eliminates greenhouse gas emissions and all toxic emissions from vehicle engines. It is good for our environment, our health, and our wallets, too, as EVs have much lower fuel and maintenance costs.

Conclusion

For these reasons, we strongly urge the Committee to favorably report this critical legislation, and, in addition, to include the strengthening amendments we are proposing.

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PRIORITY AMENDMENTS - *Developed and submitted for the Climate Partners.*

We endorse the following amendments, developed collaboratively with other climate partners.

Building electrification and efficiency:

- Climate Catalytic Capital Fund
 - Explicitly state that 40% of funds from the Climate Catalytic Capital Fund be spent in low and moderate-income neighborhoods and that funds can be spent on whole-structure retrofits (including multi-family buildings) including health, safety, weatherization, and electrification measures.
 - The purpose of the funds should explicitly include “Facilitate the electrification of the building sector”.
 - Explicitly state that funds cannot be used for installation of new equipment that uses fossil fuels
 - Funds from alternative compliance payments should go to the Climate Catalytic fund to be spent on low-income whole-structure retrofits, including low-income multi-family buildings.
- On page 35, lines 2-3, strike “water and space heating” and substitute “on-site energy” and add on line 3, “except for kitchen appliances”.
- On page 35, following line 9, add energy efficiency provisions for buildings. Add:
 - D. For new covered buildings funded at least 25% by State funds
 - A 40% reduction in modeled energy use consumption over the 2018 International Energy Conservation Code for permit applications received between Jan 1 2023 and Dec 31 2025
 - A 60% reduction in modeled energy use consumption over the 2018 International Energy Conservation Code for permit applications received between Jan 1 2025 and Dec 31 2027
 - E. For all other new covered buildings
 - A 40% reduction in modeled energy use consumption over the 2018 International Energy Conservation Code for permit applications received between Jan 1 2025 and Dec 31 2027
 - A 60% reduction in modeled energy use consumption over the 2018 International Energy Conservation Code for permit applications received when (dates missing?)
 - F. “Major Renovation” means a renovation project:
 - For which the total projected cost exceeds 50% of the assessed value of the existing building; or
 - Involving a change of use, if the change involves the application of different requirements of the standards.
 - G. If a covered building is undergoing a major renovation, the building shall be renovated to achieve:
 - A 40% reduction in the building’s average annual energy use; or
 - A 20% reduction in modeled energy use consumption over the current Energy Code.
 - H. A local jurisdiction may waive the requirements under subsection () of this section if the building owner demonstrates that the cost of the improvements necessary to achieve the required energy reductions would exceed projected operational and energy savings from the improvements over a certain payback period:
 - A 25–year period for all buildings funded at least 25% by the State.
 - A 15–year period for all other buildings.
- Provisions regarding “alternative compliance pathway” on page 47, lines 20 -23, and lines 27-29, should be sunsetted. We suggest a sunset of 12/1/2030

- Pages 47, delete lines 18-19 (“PROVIDE MAXIMUM FLEXIBILITY TO THE OWNERS OF COVERED BUILDINGS TO COMPLY WITH BUILDING EMISSIONS STANDARDS”)
- The Building Emission Performance Standards regulations directive under 2-1602 (C) should
 - require that the adopted regulations prioritize direct emission reductions from qualified buildings via electrification plans and pathways,
 - provide protection against financial cost pass-through and evictions for tenants in covered multi-family buildings, 3) require covered public buildings’ retrofits to be completed with a high-quality workforce (i.e. prevailing wage, insurance coverage, paid leave, etc.) (pg. 48)

Equity and Environmental Justice Provisions

- Strengthen the provisions on pages 9-12 by including language that requires 40% of investments go to overburdened communities and Rosenberg Justice 40 bill and/or the Boyce/Watson all agency climate, equity, and labor test language.
 - The language in the Boyce/Watson all agency climate, equity and labor test should be incorporated on page 22, lines 12-15 as well
 - The Interagency Commission on School Construction should be included as an agency required to consider climate in long-term planning

Net Zero Schools

- Explicitly state that the IAC state school construction funding process may cover planning, design, and engineering for net-zero schools.
- New School buildings that are not net-zero should be net-zero ready
- [Insert on Page 35, following line 6] (12-501(3)(I)(2)(A (under the provision requiring solar ready):
 - A. The Installation of Solar Energy Systems
 - To include a 40% roof set aside and necessary electrical panel and conduit requirements. if the building:
 - Will have 20,000 square feet or more of continuous roof space, excluding the parking area; and
 - Will be 20 stories or less in height, above grade plane.
 - B. Regulations adopted under this subsection may authorize a local jurisdiction to waive the solar-ready requirement for a building on a specific finding that:
 - incident solar radiation at the building site is less than 75% of incident solar radiation at an open site; or
 - shadow studies indicate that 25% of a building’s roof area will be in shadow.
 - Clarify the definition of “Solar Ready” to include the 40% roof set aside and the necessary electrical panel and conduit requirements.
- Delete “subject to the availability of funding” on Page 8 Line 14 and replace that language with one of the options below -
- P. 8, line 9-13, (5-312(c)(2)(I), Delete para. “Except as Provided in . . .
Delete 5-312 (c) (2) (I) of the Education Article that was inserted: except as provided in subparagraph (iii) of this paragraph, the net-zero energy requirements that apply for a building to meet the definition of a ‘high performance building’ under § 3-602.1 12 of the state finance and procurement article

OR

- Amend to read: Except as provided in Subparagraph III of this Paragraph, Public Schools shall be required to achieve a 40% reduction in modeled energy use consumption over the 2018

International Energy Conservation Code by 2023 and a 60% reduction in modeled energy use consumption over the 2018 International Energy Conservation Code by 2025.

- Pg 40 line 15-17. Remove having the Council develop guidelines and instead require them to provide an annual report on the status of meeting the high performance building requirements.
- Pg 8, line 25 – pg 9, line 2. If a school qualifies for a waiver because the Interagency Commission determines that either (I) or (II) is true, the school must be net-zero READY.

Buy Clean Maryland Act

- Consider adding To SB528 the **Buy Clean Maryland Act** provisions from HB806 - Del. Stein Public Buildings bill with one change related to the waiver provisions.
 - Section 4-904 (E) **Strike** - ~~(4) RESULT IN ONLY ONE SOURCE OR MANUFACTURER BEING ABLE TO PROVIDE THE NECESSARY MATERIALS.~~
 - **Add** - (F) IF ONLY ONE SOURCE OR MANUFACTURER IS ABLE TO PROVIDE THE NECESSARY MATERIALS, A SOLE SOURCE PROCUREMENT MAY BE ALLOWED, PROVIDED NONE OF THE OTHER WAIVER DETERMINATIONS ARE MADE.

TECHNICAL AMENDMENTS

- The term “Disproportionately affected communities” should be replaced with “overburdened communities.” (pg. 10, lines 16, 20, 23-24)
 - The definition of communities that are overburdened needs to include factors beyond climate change indicators.
 - At a minimum, an overburdened community includes any census block group... in which: (1) at least 45 percent of the households qualify as low-income households (defined as a household that is “at or below 200 percent of the federal poverty guidelines”), (2) at least 50 percent of the residents identify as non-white; OR (3) at least 25 percent of the households have limited English proficiency
- Specific to the establishment of goals for the percentage of state funding for GHG emissions reduction measures (page 10 lines 21-24 and page 11 lines 8-11):
 - Explicitly define GHG emissions reduction measures broadly (e.g.: Does it include adaptation measures such as tree planting? Building improvements? etc.)

Schools

- The “Fund Oversight Committee” of the Climate Catalytic Capital Fund should include representatives from overburdened communities and affordable housing communities.

On landfill methane

- subsection 2-408 (page 12), Amend the deadline for adoption of regulations January 2023 or June 2023.

State Fleet Electrification

- On page 42, in line 14, delete “subject to the availability of funding”

Climate Transition and Clean Energy Hub

- Include requirements for a user-friendly website and dashboard for keeping track of the hub’s progress and findings. (pg. 45)

Building Performance Standards

- Specify that baseline for percent reductions should be **2023**. Intent is to avoid folks delaying improvements for 2 years. (pg 47)
- Reporting, pg 48, line 15 - specify that reporting should include emissions and breakout electricity use. Updated text should read: *(B) TO FACILITATE THE DEVELOPMENT OF BUILDING EMISSIONS STANDARDS UNDER THIS SECTION, THE DEPARTMENT SHALL REQUIRE THE OWNERS OF COVERED BUILDINGS TO MEASURE AND REPORT DIRECT BUILDING EMISSIONS AND SITE ENERGY USE TO THE DEPARTMENT ANNUALLY BEGINNING IN 2025.*”
- *Add new provision to reg guidance to MDE, pg 49, line 3. “(I) SET A BASELINE AND BUILDING EMISSION STANDARD BY BUILDING TYPE” The intent with this specifies that regs should set baseline and goals according to building type, following a benchmarking.*
- Designated Affordable housing needs flexible timeline to align with their scheduled recapitalization and refinancing timelines
- Include a representative of the low income, renter, tenants housing community, and an ESCO rep on the Building Energy Transition Implementation Task Force (page 49)
- Edit language for the Building Energy Transition Task Force charge in section (F) (1) to include reduction of direct emissions from the building sector (pg. 51)
- Edit language for the Building Energy Transition Task Force charge in section (F) (2) to ensure the Plan may include recommendations related to aligning and maximizing federal health, safety, weatherization, energy affordability, and electrification resources and programs, and education programs for contractors and installation technicians focused on building electrification solutions (pg. 51)
- Enabling provisions should be added to allow local jurisdictions to establish more stringent energy efficiency and conservation standards for both major renovations and new construction.

Regarding Just Transition Employment Working Group

- Membership of the working group, on pg. 18, lines 5-6 strike “one representative of the Maryland Chapter of the Sierra club, selected by the Maryland Chapter of the Sierra Club” and replace with “Two representatives of the environmental community”
- On page 20, line 7, strike “counter” and substitute “address”.
- Fenceline communities should be defined (page 20, line 16)

Regarding school bus electrification

- When referring to the “cost difference between purchasing and operating” on Page 22 line 26, clarify that this includes “purchasing, deploying (infrastructure), administrative and operating costs, including retraining personnel.”

Concerning the Climate Justice Corp

- The Climate Justice Corps Board should include 3 Representatives of the communities the program is trying to work in (page 26)
- On page 27 line 16-17 it should be stated that the meetings should rotate and be hosted within the communities the Corp Program aims at benefiting.

Appropriations and timeline

- Increase appropriations to the Climate Catalytic Capital Fund to \$10 million a year and extend through FY2028
- For net-zero schools (pg. 9-10), Increase individual grants to a ceiling of \$5 million, extend the program until 2034, and increase the annual appropriation to \$20 million.
- Consider appropriations to MDE's air department to support the landfill methane work outlined on page 12
- Climate Transition and Clean Energy Hub should have an annual appropriation of \$1.5 million to fund the hub (pg. 45)

Amendments focused on mitigation potential impact on tenants

Additionally, the Sierra Club supports amendments, laid out below, offered by the National Housing Trust, which

- Pg, 47 under "Regulations adopted under this section shall:" add "Allow owners of covered buildings to submit an Alternative Compliance Action Plan to the Department if the building owner cannot meet the interim or final emissions standards by the required date or cannot meet the interim or final emissions standards due to economic infeasibility or other circumstances beyond the owner's control. The Plan shall include: (a) documentation of economic infeasibility or other circumstances beyond the owner's control such that the interim or final emissions standards cannot be met; (b) if applicable, new proposed interim or final emissions standard; (c) a list of actions the owner will take to achieve the proposed interim or final emissions standard; (d) the timeline for achieving the proposed interim or final emissions standard; and (e) other requirements determined by the Department. The criteria for evaluating an Alternative Compliance Action Plan submitted by owners of affordable housing shall include, at a minimum, whether: (a) there is a plan to refinance/recapitalize their property; or (b) there are cash flow constraints, including, but not limited to, restrictions on the usage of net cash flow, or prohibition from utilizing a portion of existing cash reserves for implementing improvements to the building that would reduce emissions."
 - *Purpose of amendment: Provides flexibility for building owners that face significant challenges to meeting compliance. Allows building owners to propose revised emissions standards and/or an adjusted timeline for meeting the emissions standard. Assures accountability by specifying the requirements that owners must meet when applying for an alternative compliance pathway and authorizing the administering agency to approve*

- or deny the owner's proposed plan. Also, specifies financial barriers related to affordable housing that the department must consider when evaluating a proposed alternative compliance action plan.*
- Pg. 50, add to the Building Energy Transition Implementation Task Force: “One representative who is a tenant of an apartment building or is an advocate for the rights of tenants of apartment buildings
 - *Purpose of amendment: Adds an important perspective to the Task Force to ensure that programs and policies address the needs of tenants.*
 - Pg. 51, under “The Task Force Shall” add “Study the costs of complying with building emissions standards for different building types including, but not limited to, affordable housing.”
 - *Purpose of amendment: Such a study is required to identify funding gaps and inform the development of complementary policies and programs*
 - Pg. 51, under the “Task Force Shall” add "Study and make recommendations regarding the development of complementary programs and policies that protect renters from increased rents and energy burdens and risk of displacement."
 - *Purpose of amendment: Helps ensure that programs and policies will be in place to protect tenants from unintended consequences that perpetuate existing inequities.*
 - Pg. 51, line 12, under the “Task Force Shall” add at the end of the sentence “that shall prioritize recommendations for funding the retrofit of affordable housing.”
 - *Purpose of amendment: Identifies funding for affordable housing as a priority of the Task Force.*
 - The Task Force should also be involved in advising the development of regulations. Proposed language: “The Task Force shall: Advise the Department on creation of an implementation plan for the Emissions Standards Program; Recommend amendments to proposed regulations issued by the Department”
 - *Purpose of amendment: Ensures that key stakeholder perspectives are consulted as the regulations and implementation plan for the building emissions standard are developed. Similar to what was required of the Task Force in DC.*